

From: [Lyons, John](#)
To: [Dreyfus, Bethany](#); [thompson, rachel](#)
Cc: [Shaffer, Caleb](#); [Moutoux, Nicole](#)
Subject: FW: OCBC Letter
Date: Monday, February 16, 2015 12:12:48 PM
Attachments: [OCBC - Feb. 11, 2015.pdf](#)
[ATT00001.htm](#)
Importance: High

From: Keith Takata [mailto:keith@keithtakata.com]
Sent: Friday, February 13, 2015 12:51 PM
To: Lyons, John
Subject: OCBC Letter
Importance: High

Keith Takata
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February 11, 2015

Cathy Green, President
Board of Directors
Orange County Water District
P.O. Box 8300
Fountain Valley, CA 92728-8300

RECEIVED

FEB 13 2015

O.C.W.D

Re: North and South Orange County Basin Groundwater

Dear President Green:

We thought we had an agreement toward a worthy goal: collaborative groundwater cleanup.

- OCWD has lost two major court cases alleging contamination of North and South Basins.
- OCWD has shaken down businesses for over \$50 million in alleged contamination settlement funds without cleaning up one drop of water.
- OCWD has stopped businesses from cleaning up their own sites.
- OCWD itself has been found by the court to be a polluter of perchlorate in Orange County's groundwater.
- OCWD now owes millions of dollars per numerous court orders to reimburse businesses for costs incurred in defending litigation.

We are suffering the worst drought in hundreds of years. To meet the goal of clean water, we agreed with you to develop a course of conduct that would allow for cooperative cleanup of alleged groundwater contamination as it saves time and money for government, business, ratepayers and taxpayers, especially in a time of future water rationing.

To that end, last year Orange County Business Council backed away from its support of proposed state legislation that your staff claimed negatively impacted OCWD. We agreed that a Memorandum of Understanding (MOU) would be developed among state agencies and business that would allow for cooperative cleanup based upon federal NCP cleanup standards—because OCWD had no cleanup standards of its own. After much delay by your staff, the MOU was finally approved by your board. At no time did the business community or OCBC ever agree to an NCP process for the pre-determined purpose of designating large areas of Orange County as Superfund sites, and certainly not a process where OCWD is the only PRP polluter that participates. We expected early consultation with PRP's and stakeholders. None of this has yet to begin.

Now instead of pursuing the principles behind the MOU, reaching out to businesses and agencies to begin a cooperative process, OCWD staff pursued secret meetings with DTSC and EPA to designate areas in Tustin, Santa Ana, Irvine, Anaheim and Fullerton as state or federal Superfund sites. On September 17, 2014, Michael Markus, OCWD General Manager, stated to me personally that OCWD was going to "stand-down" on Superfund designation; in his opinion written for the *Orange County Register* on January 30, 2014, he stated "OCWD does not intend to seek superfund designation at this time" yet secretly your staff supported DTSC's written request on November 25, 2014 for Superfund designation for the North Basin. Your team even retained Keith Takata, former EPA Superfund administrator, on your behalf, to advance this objective.

In addition, OCWD's team has even revived litigation, contrary to your direction. Sadly, they have targeted a 90 year old widow who had not used a single chemical and had no clue what processes her tenants used. Ironically, OCWD did not pursue the actual user and alleged polluter, but the widow herself had to bring that company to court. Mr. Markus reported to the *Orange County Register* on January 30 touting this as one of two recent "settlements" yet on February 6, 2015, Markus' lawyers filed court papers, breaking off settlement negotiations for an agreed upon site cleanup, in order to start trial. This is shameless.


This is a completely misdirected, unprecedented and alarming strategy affecting Orange County's economic development, job retention, property values and investment. OCWD does not need EPA and DTSC to comply with our agreed-upon transparent, public and open NCP process. OCWD can do this itself, working with us and the stakeholder community.

Respectfully, once again, we ask:

- Instruct your staff to immediately cease and desist from secret activities and keep to your commitment for cooperative cleanup of sites.
- Send DTSC and EPA Region IX letters confirming that OCWD does not seek Superfund designations at this time and therefore opposes DTSC's request in its November 25 letter seeking federal listing.
- Publicly notice any and all "task force" meetings of local, state and federal agencies to include your stakeholders and business community and encourage our participation.
- Instruct your staff to use the board-approved MOU, present it to DTSC, EPA Region IX, the Regional Water Quality Control Board and private property owners as the roadmap for collaborative cleanup of sites.
- Instruct your staff to work today with the business community to develop the collaborative process under NCP cleanup standards.

Orange County Business Council stands committed to its agreement with you. We look forward to your actions demonstrating OCWD's commitment in return.

Very truly yours,



Lucy Dunn
President and CEO
Orange County Business Council

LD:l:bb

Cc: OCWD Board of Directors
MWDOC
MWD
Santa Ana Regional Water Quality Control Board
DTSC
EPA Region IX
OC Water Producers Committee
OC Board of Supervisors
OC Legislative Delegation
OC Congressional Delegation
Cal EPA

From: [Keith Takata](#)
To: [Stewart Black](#); [Lyons, John](#); [Berchtold, Kurt@Waterboards](#); [Ann Sturdivant](#); [Amini, Nick@Waterboards](#); [John Scandura](#); [Rafat Abbasi](#); [Emad Yemut](#); [Greg.Neal@dtsc.ca.gov](#); [Willard.Garrett@dtsc.ca.gov](#); [Shaffer, Caleb](#); [thompson, rachel](#); [Moutoux, Nicole](#); [Dreyfus, Bethany](#)
Subject: HOLD THE DATE: Tuesday, February 24, 2015
Date: Tuesday, February 17, 2015 6:41:45 PM
Attachments: [Agenda NB RI Scoping 1-28-15 V5.docx](#)
[ATT00001.htm](#)

As you may recall, we settled on Tuesday, February 24, 2015, for the RI/FS Scoping Meeting. I was informed today that the regulatory agencies would like to postpone the RI/FS Scoping Meeting, but use the same date—Tuesday, February 24, 2015—for a regulatory agency only meeting to discuss source sites and other North Basin issues. OCWD will not be participating in this meeting. I believe that EPA will take the lead for setting the time, place, and agenda. Thank you very much for your patience and flexibility.

Keith

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Begin forwarded message:

From: Keith Takata <keith@keithtakata.com>
Subject: **HOLD THE DATE: Tuesday, February 24, 2014, for RI/FS Scoping Meeting**
Date: January 29, 2015 at 10:43:52 AM PST
Cc: Stewart Black <Stewart.Black@dtsc.ca.gov>, John Lyons <lyons.john@epa.gov>
To: "Berchtold, Kurt@Waterboards" <Kurt.Berchtold@waterboards.ca.gov>, Ann Sturdivant <Ann.Sturdivant@waterboards.ca.gov>, "Amini, Nick@Waterboards" <Nick.Amini@waterboards.ca.gov>, John Scandura <John.scandura@dtsc.ca.gov>, Rafat Abbasi <rabbasi@dtsc.ca.gov>, Emad Yemut <Emad.Yemut@dtsc.ca.gov>, Greg.Neal@dtsc.ca.gov, Willard.Garrett@dtsc.ca.gov, Caleb Shaffer <Shaffer.caleb@epa.gov>, Rachelle Thompson <thompson.rachelle@epa.gov>, Nicole Moutoux <moutoux.nicole@epa.gov>, Bethany Dreyfus <dreyfus.bethany@epa.gov>

AGENDA

Orange County North Basin RI/FS Scoping OCWD, RWQCB, DTSC, and EPA

**Wednesday, January 28, 2015
10:30 am to 2:30 pm
(Working Lunch Provided by OCWD)**

I. Opening

- Introductions
- Objective: The goal of the meeting is to review, discuss, and agree on the scope of the Orange County North Basin RI/FS.

[We will discuss the scope of the RI first. If there is time, we will discuss the scope of the FS.]

II. Roles and Responsibilities of Regulatory Agencies

- DTSC's Letter to EPA, November 25, 2014
- Update on Discussions Between EPA, DTSC, and RWQCB

[The regulatory agencies will report on their discussions on lead agency and roles and responsibilities.]

III. Update on Site Screens and Preliminary Assessments

IV. Briefing on OCWD RI/FS Scope of Work

A. Remedial Investigation (RI)

- Assemble and evaluate existing data
- Develop conceptual understanding of groundwater contamination
- What RI does not cover

B. Human Health Risk Assessment

C. Feasibility Study (FS) for Interim Remedy

- Identify response scenarios, applicable technologies, and operable units
- Identify ARARs
- Groundwater fate and transport modeling
- Develop Remedial Action Plan or Proposed Plan

[Meredith Durant, Kennedy/Jenks Consultants, will start with a briefing on the RI/FS scope of work. During this agenda item, the regulatory agencies may ask questions, saving comments and issues for the next agenda item.]

V. Discussion of OCWD RI/FS Scope of Work

- Comments and Issues
- Discussion

[The regulatory agencies may comment and identify issues on the RI/FS scope of work. We will cover the scope of the RI, section by section. If there is time, we will cover the scope of the FS, section by section.]

VI. Next Steps on RI/FS Scope of Work

VII. Next Steps on Administrative Order on Consent

[EPA will describe the process for getting an Administrative Order on Consent in place.]

VIII. Action Items and Wrap-up

OCWD Participants

- Roy Herndon, Chief Hydrogeologist, OCWD
- Dave Mark, Project Manager/Hydrogeologist, OCWD
- Meredith Durant, Kennedy/Jenks Consultants
- Keith Takata, Consultant

RWQCB and SWRCB Participants

- Kurt Berchtold, Executive Officer, Santa Ana RWQCB
- Ann Sturdivant, Site Cleanup, Santa Ana RWQCB
- Nick Amini, WRCE, Santa Ana RWQCB

DTSC Participants

- John Scandura, Branch Chief, Brownfields & Environmental Restoration Program
- Rafat Abbasi, Project Manager, Brownfields & Environmental Restoration Program
- Greg Neal, Geologist, Brownfields & Environmental Restoration Program
- Emad Yemut, Supervisor, Brownfields & Environmental Restoration Program

EPA Participants

- Caleb Shaffer, Section Chief, California Site Cleanup Section
- Rachelle Thompson, Project Manager, Site Cleanup
- Nicole Moutoux, Section Chief, Brownfields & Site Assessment Section

Believe it or not, everyone can make Tuesday, February 24, 2014, for the Orange County North Basin RI/FS Scoping Meeting. Please hold the date. We'll set the time later. Attached is the latest draft of the agenda. We should have time to discuss other topics, so please let me know any additional agenda topics. Thank you!

Keith

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